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C O N F I D E N T I A L SECTION 01 OF 03 BEIRUT 000708

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NSC FOR ABRAMS/SINGH/MARCHESE/HARDING

E.O. 12958: DECL: 05/21/2027

TAGS: PREL PTER KDEM LE SY

SUBJECT: LAHOUD'S LEGAL ADVISOR CLAIMS TWO-CABINET SCENARIO
NOT INEVITABLE

Classified By: Jeffrey Feltman, Ambassador, per 1.4 (b) and (d).

SUMMARY

¶1. (C) Judge Selim Jeressaiti has a tough job: to persuade otherwise intelligent people that President Emile Lahoud's views have constitutional weight. Lahoud's recent rambling, ridiculous, but damaging letter to the UNSYG Ban regarding the Special Tribunal for Lebanon was a Jeressaiti product. The former Constitutional Council member met with the Ambassador on 5/18 to encourage the USG to use its influence to persuade Fouad Siniora to resign the premiership, an essential step in Jeressaiti's view to solving the cabinet crisis and preventing Lahoud from taking calamitous decisions. Siniora's cabinet would, in Jeressaiti's view, then have constitutional legitimacy as a caretaker cabinet (although even Jeressaiti, when pressed, acknowledged that Lahoud might not recognize even that). This would also prevent Lahoud from appointing a second cabinet, a step that Jeressaiti insists Lahoud will not take in any case until the last moments of his presidency. As for rumors that Lahoud might declare the dissolution of the parliament, Jeressaiti said that he was advising Lahoud that he enjoyed no such power. But Jeressaiti refused to dismiss altogether the danger that Lahoud might proceed despite the advice of his lawyer. Jeressaiti's credibility is somewhat questionable, given his insistence that the odious Lahoud "likes and respects" the U.S. and considers Fouad Siniora a personal friend (feelings, we assure you, that are not reciprocated). End summary.

APPOINTMENT OF SECOND CABINET:

LAHOUD TO WAIT UNTIL END OF HIS TERM

¶2. (C) The Ambassador invited Selim Jeressaiti, the amiable former member of Lebanon's Constitutional Council (ousted when March 14 MPs dissolved the Syrian- and Lahoud-appointed judges), to the Residence on 5/18 in an attempt to explore what President Emile Lahoud -- who turns to Jeressaiti for legal advice -- is thinking vis-a-vis the appointment of a second cabinet. Agreeably concurring with the Ambassador that a second catastrophe would be a calamity for Lebanon, Jeressaiti assured the Ambassador that he had persuaded Lahoud not to move precipitously in that direction. The de facto existence of the cabinet of Prime Minister Fouad Siniora, in Jeressaiti's view, makes it legally and constitutionally "dubious" for Lahoud to appoint a second cabinet. So far, Jeressaiti said, Lahoud was following his advice.

13. (C) But, Jeressaiti warned, if the cabinet crisis continues and no compromise emerges on the presidency, "I can't guarantee Lahoud won't act eventually." He predicted that Lahoud will, in his final days in office in November, appoint a second prime minister and second cabinet, should the political crisis persist. Whatever the constitutional arguments Jeressaiti might muster, Lahoud told Jeressaiti that he would "never" turn over the presidency functions to an "illegal" cabinet headed by Fouad Siniora. Questioned by the Ambassador, Jeressaiti again insisted that "we have time" to solve the crisis before Lahoud moves in that direction.

ADVISING LAHOUD HE HAS NO POWER
TO DISSOLVE PARLIAMENT BY HIMSELF

14. (C) The Ambassador asked Jeressaiti whether he thought Lahoud would twist Article 65 of the constitution in such a way that would justify dissolving parliament. Jeressaiti acknowledged that Lahoud had been musing about such an idea with his legal advisor. His advice to Lahoud was that the president enjoyed no such unilateral power under the constitution. "He may think he has the power to dissolve parliament, but he does not. He needs the cabinet." So far, as with the cabinet, Lahoud was following his advice. Answering the Ambassador's questions, Jeressaiti acknowledged that his arguments have not put the subject to rest definitively, however. Lahoud may still try to dissolve parliament. Again, Jeressaiti argued that there is still time to solve the crisis before that happens.

CABINET CRISIS CAN BE SOLVED,
IF ONLY SINIORA WOULD RESIGN

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15. (C) Given that there is still time to head off damaging moves by Lahoud, Jeressaiti argued that it is important to solve Lebanon's cabinet crisis now. Perhaps a new, technocratic cabinet could oversee Lebanon until presidential elections; perhaps Siniora's existing cabinet could be expanded. But the status quo will lead to danger, Jeressaiti argued. To start the process of a solution, Fouad Siniora should resign in the near future, perhaps after the Special Tribunal is approved by the UN Security Council. At that point, Jeressaiti said, the Shia would rejoin the cabinet, which would then enjoy caretaker status. Caretaker cabinets are constitutionally recognized, and Lahoud's desire to appoint a second cabinet could not be acted upon. The Ambassador asked whether Lahoud would recognize the constitutional caretaker status of the cabinet. "I would advise him to do so," Jeressaiti said. Yes, but would he? "Probably not," Jeressaiti conceded. Pressed by the Ambassador, he acknowledged that Lahoud would also continue to reject all decisions taken by the cabinet between November 11 (when the Shia ministers resigned) and today. The Ambassador told Jeressaiti that, while the decision is not ours, there seemed very few advantages to a Siniora resignation and many disadvantages.

LETTER TO UNSYG ON TRIBUNAL:
LAHOUD'S CYA EXERCISE?

16. (C) The Ambassador asked Jeressaiti about Lahoud's 5/16 letter to UNSYG Ban Ki-Moon regarding the tribunal. "You didn't like it?" Jeressaiti asked; "it's an excellent letter!" The Ambassador described the letter as rambling and ridiculous. Why, the Ambassador asked, does Lahoud insist on making himself look even more foolish in the eyes of the world? Why wouldn't he simply remain silent and finish office with a modicum of self-respect? Growing quiet, Jeressaiti said that Lahoud "had" to send the letter to Ban. Lahoud knows that the tribunal will be adopted under Chapter

VII, but he needed to be able to tell the Syrians and Hizballah that he had tried everything to stop it. The letter needs to seen in that context, Jeressaiti explained, as Lahoud knows it won't make a difference in New York.

(Comment: We hope it doesn't make a difference in New York. French Ambassador Bernard Emile commented separately, after being briefed on the Friday discussions among UNSC members, that "we should not underestimate the damage of Lahoud's letter" on the debate in New York. End comment.)

¶7. (C) In closing the meeting, the unfailingly cordial Jeressaiti said that Lahoud deeply regrets the deterioration of his relations with the United States. While he never liked France, he always felt at home with Americans and considers his time at the Naval War College to be a high point of his life. Despite everything, Lahoud "likes and respects you," Jeressaiti insisted. Lahoud's expansive sense of generous friendship extends even to Fouad Siniora, Jeressaiti continued. Siniora and Lahoud are neighbors in the mountain resort of Faqra, and Andree Lahoud and Houda Siniora have always been close. Lahoud considers Siniora a friend. Lahoud believes that there is probably no one better than Siniora to be PM of Lebanon, but there must be a solution to the cabinet crisis.

COMMENT

¶8. (C) Jeressaiti was at pains to insist that we have time to head off any plans by Lahoud to appoint a second cabinet. But we are not reassured by Jeressaiti's words -- if the Syrians tell Emile Lahoud that it is time to appoint a second prime minister, we don't think Jeressaiti's constitutional arguments will count for much. Whatever he claims his personal views on the legality of such a step to be, he will, in fact, be the one tasked with finding the shreds of constitutional arguments to justify such a move. We're skeptical of Jeressaiti's words in any case: does he really expect us to believe that Lahoud "likes and respects" Ambassador Feltman? While our goal in this meeting was to explore what Lahoud might be thinking, Jeressaiti's goal seemed to be to encourage us into prodding Siniora to resign. If March 14 and GOL leaders themselves concludes that they are better off with a caretaker cabinet, that is their business. We will listen to their explanations. But we are not going to promote an idea ourselves that strikes us as adding one more layer of weakness to Siniora's grip on the

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